

SUBJECT: USAID's Disability Reasonable Accommodation Policy

NEW MATERIAL: This notice reflects changes to ADS Chapter 110 pertaining to Reasonable Accommodation. ADS Chapter 110 contains the policy and procedures that govern USAID's process for requesting reasonable accommodation. All Federal agencies must make reasonable accommodation to the documented physical or mental limitations of a qualified applicant or employee with a disability unless the agency demonstrates that the accommodation would impose an undue hardship on the operation of its program.

EFFECTIVE DATE: 10/20/2000

ATTACHMENT: [ADS 110, Equal Employment Opportunity](#)

POLICY

USAID/General Notice
EOP
10/12/2005

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The portion of the ADS 110 Chapter that relates to USAID's reasonable accommodation process is provided below.

110.3.6.2 Reasonable Accommodation

a. USAID must make reasonable accommodation to the documented physical or mental limitations of a qualified applicant or employee with a disability unless USAID demonstrates that the accommodation would impose an undue hardship on the operation of its program. Reasonable accommodation means any change in the work environment, or in the way things are customarily done, that enables a qualified applicant or employee with a disability to perform the essential functions of a job. It also means a modification or adjustment that enables an applicant or employee with a

disability to enjoy equal benefits and privileges of employment as are enjoyed by other similarly situated employees without disabilities.

Where appropriate, reasonable accommodation may include, but may not be limited to

- Making facilities readily accessible to and usable by persons with disabilities;
- Job restructuring and part-time or modified work schedules;
- Acquisition or modification of equipment or devices such as Telecommunication Device for the Deaf (TDD);
- Adjustment or modification of examinations; and
- Provision of readers or interpreters, reassignments, and other similar actions.

b. If reasonable accommodation is desired, an applicant, employee, or family member, health professional, or other representative who is acting on the individual's behalf may request an accommodation on behalf of an employee or applicant. A request can be initiated either orally or in writing. USAID begins processing all reasonable accommodation requests immediately following receipt of the oral or written request. The request can be made to the D/EOP, the Disability Employment Program Manager in EOP, the employee's supervisor(s), or in the application process, any Agency employee with whom the applicant has contact. The supervisor or Bureau/Office management must notify the D/EOP or the Disability Employment Program Manager in EOP within five working days of each request made to the employee's supervisor. (See Mandatory Reference, 5 CFR 339.101-104)

c. The DRC convenes as necessary to review requests for reasonable accommodation, including medical documentation submitted by the employee or applicant, as appropriate, and approves or disapproves the requested accommodation. The DRC determines whether the requested accommodation imposes an undue hardship on USAID, and, if so, whether alternative accommodation are deemed appropriate.

d. The DRC may request medical documentation when appropriately warranted by the circumstances. The DRC may refer the medical documentation to other health care professionals to obtain additional information regarding submitted medical documentation, the nature of the disability, or the nature of the proposed or alternative accommodation. Reports on any such additional information must be provided in writing to the DRC and must be provided to the person seeking the accommodation.

110.3.6.3 Factors to be Considered

a. In approving an accommodation, or disapproving an accommodation based on undue hardship, the DRC must consider the following factors:

- The nature and cost of the accommodation requested, and its impact on the Agency;
- The mission of the organization, which the accommodation would impact;
- The structure and composition of the organization;
- Any pertinent legal or Agency precedents;
- The function, with or without accommodation, of the employee/applicant requesting the accommodation;
- Whether the medical documentation, as appropriate, met the requirements of 5 CFR 339.104; and
- Any written input by the supervisor.

b. The DRC must make a decision on the request, by majority vote, within 30 days or less of receiving a request for accommodation. The time limit will be in abeyance if medical documentation is required, but will commence running upon receipt of sufficient documentation.

c. Medical documentation is required in support of an accommodation request if the disability or need for accommodations are not obvious or already known.

d. It is the responsibility of the employee or applicant requesting reasonable accommodation to provide appropriate medical information related to the functional impairment and the requested accommodation if the disability or need for accommodation is not obvious.

e. USAID has a right to request relevant supplemental medical information if the information submitted

- does not clearly explain the nature of the disability or the need for the reasonable accommodation;
- does not otherwise clarify how the requested accommodation will assist the employee in performing the essential functions of the job;
- does not otherwise clarify how the requested accommodation will allow the employee to enjoy the benefits and privileges of the workplace; or
- in the case of an applicant, does not otherwise clarify how the requested accommodation will assist him or her with the application process.

f. The Agency has a right to have medical information reviewed by a medical expert of the Agency's choosing at the Agency's expense.

g. The DRC prepares any necessary implementation directions and sends them to the appropriate Agency offices. The Management Bureau provides funds required for reasonable accommodations approved by the DRC when it receives an implementation memorandum from the DRC.

h. Once the DRC approves a request for a reasonable accommodation, the employee or applicant does not have to file another request for the same or similar accommodation if he or she requires the accommodation on a repetitive basis. (e.g., a sign language interpreter). However, if a request for accommodation is based on a new or different disability, or requires an accommodation that is significantly different from that previously approved, the employee or applicant must submit a new request in accordance with this regulation. See section 110.3.5.4 for the circumstances and implementation directions for when reassignment is required as a reasonable accommodation.

i. The DRC also provides determinations regarding reasonable accommodation in the following circumstances:

(1) When the Agency is required to provide a certification regarding accommodation pursuant to a civil service disability retirement application; or

(2) When the Agency is requested or otherwise required to provide an opinion or determination regarding accommodation in a case before the Department of Labor, Office of Workers' Compensation Programs (OWCP).

In the cases set forth in paragraphs a. and b. above, the DRC must apply the same standards and criteria (including the medical documentation requirements) as when making decisions on employee requests for reasonable accommodation. In all cases under this provision, the DRC must coordinate all actions with the Office of Human Resources, Personnel Operations Division (M/HR/POD).

110.3.6.4 Denial of Requests for Reasonable Accommodation

Denial of a request for reasonable accommodation must be in writing and specifically explain the reasons the request was denied, for example

- Why the medical documentation is inadequate to establish that the individual has a disability or needs reasonable accommodation;
- Why the requested accommodation would not be effective; or
- Why the accommodation would pose an undue hardship.

All denials of requests for reasonable accommodation include information regarding appeal rights and the right to file an EEO complaint or engage other statutory processes, as appropriate. An employee/applicant may file an EEO complaint with the Office of Equal Opportunity Programs (EOP) if he or she is not satisfied with the accommodation decision or if the accommodation is not implemented. A copy of the accommodation request and response, and any implementation documents, must remain on file in EOP for the duration of the employee's employment.

110.3.6.5 Reconsideration of a Request

If the employee or applicant desires reconsideration, he or she can submit an oral or written request for reconsideration to either

- a. The Disability Review Committee (DRC) within 15 calendar days of receipt of the initial DRC decision, if additional information is available. The DRC will respond to the request within 15 calendar days; or
- b. The D/EOP within 15 calendar days of receipt of the initial DRC decision, or the DRC response for reconsideration. The D/EOP will respond to the request within 15 calendar days.

The above appeals do not prevent, or in any way change, the requirements or time limits for any other appeal processes (EEO complaints, Agency grievances, Merit Systems Protection Board (MSPB) appeals) that may be available to the employee/applicant.

110.3.6.6 Tracking Appeals

The Agency is required to track the processing of requests for reasonable accommodation. EOP maintains a system of records to track the processing of requests for reasonable accommodation and to maintain the confidentiality of medical information received in accordance with applicable laws and regulations. Supporting documentation, specifically relating to medical information, must not become part of an official personnel file. The decision maker must forward all records involving reasonable accommodation requests to the Disability Program Manager or DRC Chairperson for storage and maintenance in EOP. The Disability Program Manager prepares an annual report that is made available to all employees upon request and is submitted to the EEOC. The annual report contains the following data:

- a. The number of reasonable accommodations, by type, that were requested in the application process and whether those requests were granted or denied;
- b. The jobs (occupational series, grade level, and Agency component) for which reasonable accommodations were requested;

- c. The types of reasonable accommodations that were requested for each of those jobs;
- d. The number of reasonable accommodations, by type, for each job, that were approved, and the number of accommodations, by type, that were denied;
- e. The number of requests for reasonable accommodation, by type, that relate to the benefits or privileges of employment, and whether those requests were granted or denied;
- f. The reasons for denial of requests for reasonable accommodation;
- g. The amount of time taken to process each request for reasonable accommodation; and
- h. The sources of technical assistance that have been consulted in trying to identify possible reasonable accommodations.

The DRC process and the factors that the DRC must consider (see 110.3.6.3) confer no rights on any employee in addition to those granted in the Rehabilitation Act, 29 CFR 1614.103-110, and 29 CFR 1614.203.

Point of Contact: Any questions concerning this Notice may be directed to Carolyn Mackey-Bryant, EOP, (202) 712-0143.

Notice 1039

File Name	Notice Date	Effective Date	Editorial Revision Date	ADS CD No.	Remarks
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